Proposed Logging in the Shawnigan Lake Watershed

Complaint Investigation 040558

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Executive Summary

The Investigation

In May 2004, the Board received a complaint from Shawnigan Lake Watershed Watch (SLWW) about proposed development within the community watershed. The complainant felt that a planned cutblock by BC Timber Sales (BCTS) would not provide for sustainable forest management in the watershed. It also believed consultation regarding the site plan was inadequate.

The Board investigated the following issues:

- Were the forest practices in the site plan consistent with the Forest Practices Code and associated guidebooks?
- Was communication about the site plan adequate?

The Board found the silvicultural system, tree retention, riparian management, windthrow management and root-rot management were consistent with the Code and guidebooks. The road system partially incorporated existing trails, and was consistent with the guidebook recommendations to minimize stream crossings and avoid riparian areas.

The Board also found that BCTS went beyond the legal requirements for consultation with the public. SLWW had reviewed and commented on the original forest development plan (FDP) for the area and knew the general location of the cutblock.

However, specific details about proposed practices within the block were not included in the FDP. SLWW only became aware of the site plan details during the field trip organized by BCTS, shortly before the block was sold.

From SLWW's perspective, communication on the site plan came late in the planning process and there was not enough time to respond. From BCTS's perspective, it completed its legislated consultation requirements during the FDP process, and then exceeded these requirements by subsequently inviting SLWW members on the field trip.

Board Commentary

In a recent bulletin on this topic,[1] the Board discussed principles for effective communication with the public. Effective public consultation requires public input at the appropriate planning level, and the public must have an opportunity for input at all planning levels, depending on their interests. In this case, the FDP was the most appropriate level for the

SLWW to address its concerns about management of the overall watershed, but input at the site plan level was also appropriate.

Under FRPA, forest stewardship plans (FSPs) will replace forest development plans. There is no requirement for an FSP to show government or the public where cutblocks will be located, or to refer site plans to the public, although a licensee must make them available to the public if requested. Under this new framework, the public may have less information about proposed forest practices, unless they take the initiative to request information.

The public shares the responsibility for ensuring effective public consultation. It must make an effort to stay informed. In the future, if the complainant wants to have further input after the FDP or FSP stage, it should explicitly request it in writing. BCTS should continue to consult with such groups at the site plan stage, or at least advise them that a site plan is available if it knows that there is an interest in specific cutblocks. An appropriate amount of time for reviewing plans should be provided, reflecting the nature of the review and the parties' needs. This should be determined through discussion between the parties.

Although there were communication problems in this complaint, the key issue was differing views between BCTS and SLWW on the appropriate level of logging in the watershed. That issue was unlikely to be resolved by more communication on operational plans for individual cutblocks. This type of concern can only be addressed through land use discussions around the objectives for resource management zones in the Vancouver Island Summary Land Use Plan.

While the Board has found that BCTS has met FRPA requirements and exceeded these in terms of consultation, the Board also recognizes that there is a gap between the standard that some of the public believe is appropriate and what FRPA requires. This issue is not unique to this watershed and has been raised in other Board complaint investigations. The Board is actively tracking this issue and, if necessary, will consider making recommendations to government for legislative changes to forest practice standards in community and/or domestic use watersheds.

The Investigation

In May 2004, the Board received a complaint from Shawnigan Lake Watershed Watch (SLWW) (the complainant), an organization of residents concerned about development within the community watershed, located on southern Vancouver Island. SLWW was concerned about a cutblock planned by BC Timber Sales (BCTS) north of the lake. SLWW felt the planned cutblock would not provide for sustainable forest management in the watershed. It disagreed with:

- the proposed silvicultural system;
- the levels and location of retention;
- riparian management practices;
- the windthrow management prescription;
- the prescription to address root-rot; and
- the road layout.

The complainant also believed consultation regarding the site plan was inadequate.

Background

The Shawnigan Lake watershed is a 10,000-hectare community watershed[ii]. It includes private residences around the lake, plus unoccupied private and Crown forest land. Twenty-five percent of the watershed is Crown forest land. Although it is a community watershed, the district manager exempted licensees from the normal requirement to conduct a watershed assessment. This was discussed in a previous Board investigation[iii] that considered a complaint about the management of the water resource in the watershed. In that investigation, the Board concluded that it was appropriate for decision makers to be satisfied that the forest plans, on Crown forest land, would adequately manage and conserve the water resource.

Timber harvesting within the Shawnigan Lake landscape unit is guided by the Vancouver Island Summary Land Use Plan (VISLUP). Legal higher level plan objectives have not been set for the area, but the VISLUP provides management policy direction. It established the land use of the area as a "general management zone" (RMZ 34) to be managed for sustained integrated resource use, and as a "basic" biodiversity zone (the lowest category for biodiversity management in the plan). The VISLUP biodiversity strategy for the small blocks of provincial forest in the zone is to manage biodiversity through stand-level practices like, retention of scattered veteran trees and retention of wildlife tree patches.

The cutblock in question (TSL A52585), is beside Shelby Road, near the north end of Shawnigan Lake. It covers about 30 hectares on a generally south facing slope. The cutblock

has two biogeoclimatic subzones; the CDFmm, a moist subzone of the coastal Douglas fir zone; and the CWHxm, a drier subzone of the coastal western hemlock zone. The stand throughout the cutblock is mostly even-aged second growth with veteran Douglas fir trees. A forest health survey found moderate to high levels of root-rot in the CWHxm unit.

The cutblock was approved by the Ministry of Forests (MOF) district manager in February 2001 as part of the 2000-2004 forest development plan (FDP) for the Small Business Forest Enterprise Program (SBFEP), which subsequently became BC Timber Sales (BCTS). (At that time, SBFEP was managed by the forest district. That is no longer the case for BCTS). SLWW had reviewed the FDP and made comments during the public review period. The comments were not specific to TSL A52585, but related to the rate of harvesting in the community watershed. In December 2001, SLWW met with licensees and several government ministries, including MOF district staff, to discuss its concerns about harvesting. The concerns were not resolved, but MOF said it would maintain a low level of harvest on a long-term basis, through commercial thinning and small openings with retention. SLWW believes that MOF also promised to retain 70 percent of trees in the cutblocks in the watershed. BCTS staff have no evidence of this promise, but believe that it may have been made in reference to commercial thinning operations.

BCTS and SLWW did not formally communicate again regarding cutblock TSL A52585 until 2004. BCTS conducted a field trip to the site on February 13, 2004, at the request of a local trails society, and SLWW was invited to attend because of its previously expressed interest. SLWW received the site plan for the cutblock on the day of the field trip. During the field trip, SLWW did not make many comments and took the information to review with its members. BCTS assumed SLWW did not have any strong concerns with the proposed logging, and advertised the cutblock for sale.

In the two months following the field trip, SLWW conducted two more field trips of its own to the cutblock and consulted with members. In late February and early March, SLWW requested and received information about the timber type, volume, and retention for the cutblock. In April it sent a letter to BCTS with its concerns about the cutblock, but the block had been sold in March. SLWW filed the complaint with the Board shortly thereafter. Development on the cutblock began shortly after the Board initiated its investigation, and harvesting was completed in the fall of 2004.

Issues

The 2000-2004 FDP was prepared under the *Forest Practices Code of British Columbia Act* (the Code). As a result, the forest practices requirements are those prescribed by the Code[iv]. This means a site plan must be consistent with an FDP (section 11(1) of the Act) and consistent with any higher level plans (section 10(1) of the Act).

However, the complaint concerned more than mere compliance with the Code; the SLWW questioned whether the site plan was reasonable given the proximity to the community around Shawnigan Lake. The various guidebooks produced under the Code are generally not legally binding, but they do recommend appropriate and best forest practices in relation to most forest resources. Therefore, the investigation compared what was proposed with recommendations in the relevant guidebooks. If the plan met the combined tests of compliance with the law and the general theme of the guidebooks recommendations, the Board would consider the plan appropriate.

The Board investigated the following issues:

- Were the forest practices in the site plan consistent with the Code and associated guidebooks?
- Was communication about the site plan adequate?

Discussion

1.0 Were the forest practices in the site plan consistent with the Code?

The investigation considered the following forest practices for the site:

- silvicultural system
- tree retention
- riparian management
- windthrow management
- root-rot management
- road system

1.1 Silvicultural System

The site plan describes the silvicultural system as retention, but the complainant describes it as even-aged clearcut. The complainant asserts that clearcutting is inappropriate, because it believes that natural disturbance from fires in this area would have left a more diverse, uneven-aged forest stand.

The VISLUP recommended partial cutting for this area. Partial cutting, defined in the *Operational and Site Planning Regulation* (OSPR), includes both clearcutting with reserves, and retention systems. The FDP states that over 60 percent of the cutblocks will use systems that meet the criteria of 'retention systems' as defined in the OSPR. "Retention" is a

silvicultural system designed to retain individual trees or groups of trees to maintain structural diversity over the area of the cutblock for at least one rotation. It does not involve a minimum level of retention, but does require leaving more than half the total area of the cutblock within one tree height from the base of a tree or group of trees, whether or not the tree or group of trees is inside the cutblock. The site plan, with its mapped retention areas, meets the definition of retention, and is consistent with the VISLUP.

The *Biodiversity Guidebook* recommends an even-aged silvicultural system with wildlife tree patches, for the ecosystem and natural disturbance type that characterize this cutblock. It also recommends maintaining snags, veteran trees, and coarse woody debris.

The silvicultural system described in the site plan is appropriate because it is consistent with the VISLUP, the FDP and the *Biodiversity Guidebook*.

1.2 Tree retention

The complainant is concerned that the areas designated for retention are insufficient, do not provide adequate wildlife habitat, and are not representative of the stand. It says that the retention is mainly on rocky outcrops without cedar trees.

There is no Code requirement for a specific amount of wildlife tree retention. Retention levels are recommended in the *Biodiversity Guidebook* and in the *Landscape Unit Planning Guide*. District policy[v] is based upon these recommendations. The FDP specifies retention levels of 11 or 12 percent for the landscape unit and the biogeoclimatic zones that characterize the cutblock. The site plan indicates that 13.7 percent of the stand will remain in wildlife tree patches (WTPs), leave areas and dispersed individual trees. Therefore, the planned retention levels are appropriate because they are consistent with the guidebook, policy direction, and the FDP.

There is no Code requirement to specify location or characteristics for retention areas. Provincial policy recommends locating wildlife tree retention in otherwise-constrained areas, such as riparian management areas (RMAs), where possible, but also protecting trees with valuable wildlife tree attributes.[vi] The FDP states that WTPs should include large-diameter trees and overlap otherwise-constrained areas like RMAs and wetlands. WTPs should also encompass features that are important to cavity nesting birds or important riparian features. The mapped WTPs in the site plan largely meet the policy and FDP direction. That was further supported in the Board's field observations. The complainant was also concerned that a deer bed and birthing site would be destroyed by the harvesting, but there is no legal protection for such sites and no requirement for BCTS to incorporate them into its planned retention.

The FDP plans to protect rare plant communities at the stand level by including them in WTPs. The site plan indicates that WTPs protect two rare plant communities. In addition,

individual unidentified cedar trees will be retained throughout the cutblock and within the stream RMA.

The amount and location of retention is consistent with the recommendations of Code guidebooks, the wildlife tree policy and the FDP.

1.3 Riparian Management

The complainant believes that the riparian management prescription is inadequate. It advocates a 30-metre buffer on the main stream in the block, meeting the federal Department of Fisheries and Oceans' recommendations for small streams. However, section 59 of the OSPR has its own requirements for management areas along streams. The streams around this cutblock are not fish-bearing but, being in a community watershed, they are classified as if they were small fish-bearing streams (S4).

The Code does not prohibit harvest along S4 streams but does require a 30-metre "management zone." Harvesting is permitted within this zone, as long as it does not adversely affect the stream itself. The *Riparian Management Area Guidebook* states that windthrow hazard has a strong influence over the successful management of riparian areas. It recommends removal of all dominant conifers, and retention of 50 percent of remaining stems, within 10 metres of coastal S4 streams, and retention of windfirm trees with roots embedded in the bank. The recommendations provide guidance for consideration, but are not legal requirements. The prescribing forester can apply or modify them as they feel is appropriate for the individual site. In this case, a BCTS consultant recommended that trees be removed along the stream, to reduce the risk of post-harvest blowdown damaging the banks and adding more sediment into the stream.

The site plan includes a 30-metre management zone on the S4 stream in the cutblock. It proposes harvesting trees within the management zone except in mapped retention patches. There is a 5-metre machine-free zone, and no stumping (to treat root-rot) will be done within 5 metres of the stream. Harvested trees are to be felled and yarded away from the stream. Windfirm trees will be maintained within the retention patches. Although it does not specify what percentage of non-dominant conifers will be retained, the site plan is generally consistent with best management practices for RMAs. It is also consistent with Code requirements for stream classification and management.

1.4 Windthrow Management

The complainant asserts the site plan does not adequately manage windthrow in the block. The complainant saw windthrow in other areas in the watershed, and believes that trees in the stream riparian area, and along the northern edge of the block, are extremely vulnerable to windthrow. The complainant feels that a reserve of trees should be left to protect the trees along the stream.

The Code does not deal specifically with windthrow management but forest health factors must be considered. The FDP states that windthrow assessments will be completed where there is a moderate or high risk of windthrow, and that management strategies will follow the recommendations in the Windthrow Handbook[vii]. A windthrow assessment was completed for the cutblock. The windthrow hazard was low to moderate throughout the cutblock, with the moderate hazard located in root-rot areas. Overall, the potential impact of windthrow was low for the cutblock, except along the main stream and portions of the west and northwest boundary where the consequence was rated as low to moderate.

The site plan anticipates windthrow. For the west and northwest boundaries of the cutblock, BCTS prescribed feathering the edges and removing susceptible trees. Elsewhere in the block, windthrow salvage is anticipated after logging. The site plan is consistent with recommended practices for windthrow management.

The prescription for windthrow is consistent with the FDP and the practices recommended in the Windthrow Handbook.

1.5 Root-rot Management

The cutblock area has both laminated and armillaria root-rot. Over the entire infected area of the cutblock, stumps are to be pushed over, exposing the roots to kill the disease and reduce the likelihood of it spreading to new trees. The complainant is concerned about the impacts of that practice on a range of resource values, including wildlife habitat, non-timber forest products, recreation and water quality. After seeking outside specialist advice on the matter, the complainant considers stumping of the entire affected area to be too aggressive, and is concerned it will cause sedimentation from exposed soils. The complainant wants stumping to be restricted to the most severe infection sites. Surrounding trees should simply be thinned, with resistant species planted around these areas to prevent further spread of the root-rot.

The Code requires a forest health assessment, but does not set out specific treatments for root-rot. BCTS completed an assessment in January 2002. Guidance for managing root-rot is provided in the *Root Disease Management Guidebook*. The FDP recommends removing all stumps in areas with high or very high incidence rates (described as 16-30 percent) of root-rot. The site plan indicated that in 15 percent of the cutblock there is a moderate to high incidence of infection spread, primarily throughout the CWH unit. It recommends stumping the entire CWH unit, except for a buffer along streams, WTPs, and beside individual retention trees. The site plan also states resistant species are to be planted in a 10-metre buffer around WTPs, dispersed retention clumps and individual leave trees. BCTS explained that the strategy is common in the district, and that a less aggressive strategy could result in missing areas of root-rot.

An erosion potential and sediment delivery assessment found that there was a low to moderate risk of sediment entering streams within the cutblock, and a low risk that any sediment in the streams would reach Shawnigan Lake.

The cutblock was harvested while the Board investigation was underway. Root-rot was found to be less extensive than indicated in the site plan. In response, BCTS amended the site plan to reduce the area to be stumped from 14.8 to 11.4 hectares.

The management approach proposed by BCTS was relatively aggressive. However, the site plan met the Code requirements. The proposed root-rot management strategy is consistent with management guidelines and consideration was given to minimizing impacts on other resource values.

1.6 Road system

The cutblock and surrounding area includes several recreational trails used by local residents. The largest is the Kaptara Trail. The complainant asserted the site plan did not adequately make use of the existing trails and created an extra stream crossing. The site plan indicates trails are used to some degree and there is one crossing of the main stream. A stream crossing would still be needed, even if BCTS used the trail system to a greater degree, as recommended by the complainant. The *Community Watershed Guidebook* recommends minimizing crossings and keeping roads out of RMAs. While there may be other ways that access could have been designed, the site plan was consistent with the guidebook recommendations.

The complainant is concerned the site plan does not leave enough tree cover along the trails. The cutblock is set back from the Kaptara Trail, but does cross smaller trails within the block, and a trail north of the Kaptara Trail forms the southern block boundary. The FDP does not identify specific recreational objectives for the area, but commits BCTS to communicate with a local trails society. BCTS conducted a field trip with the trail group and SLWW. BCTS explained that the trail group's concerns centred on the Kaptara Trail but it also wanted other trails within the cutblock re-established after harvesting. Additional information provided with the site plan indicated that trails will be restored for public use. BCTS also amended the site plan to retain additional trees identified by the trail group.

The road system partially incorporated existing trails, and was consistent with the *Community Watershed Guidebook* recommendations to minimize stream crossings and avoid riparian areas.

2.0 Was communication about the site plan adequate?

The complainant felt that BCTS was not sincere in seeking its comments, and consultation was not meaningful. Some of this dissatisfaction resulted from the consultation process

during the FDP preparation. SLWW continues to feel that its concerns were not adequately addressed through that process.

The Code required MOF to provide an opportunity for the public to comment on the FDP but there was no requirement for further public consultation. SLWW had reviewed and commented on the original FDP and knew the general location of the cutblock. However, specific details about proposed practices within the block were not included in the FDP. SLWW only became aware of the site plan details during the field trip organized by BCTS, shortely before the block was sold.

From SLWW's perspective, communication on the site plan came late in the planning process and there was not enough time to respond. The complainant said that the field trip did not cover the entire block, so further visits were necessary. From BCTS's perspective, it completed its legislated consultation requirements during the FDP process, and then exceeded these requirements by subsequently inviting SLWW members on the field trip. When BCTS received no further comments on the field trip, it concluded that it had done enough.

BCTS took an extra step to consult with SLWW by inviting them on the February 2004 field trip. A summary of points from the December 2001 meeting (attended by MOF and SLWW) states that consultation would not be directed at individual groups unless specifically arranged and agreed to by the individual agency or company. However, there was a failure in effective communication by both parties at that point. BCTS did not understand that SLWW continued to have concerns, and intended to provide more comments on the site plan at a later date. SLWW, in turn, did not understand that the field trip was the last opportunity to comment and that the cutblock would be sold shortly.

BCTS went beyond the legislated requirements for consultation with the public, but there were communication problems between the two parties.

Conclusions

1. The prescriptions in the site plan for the resource issues raised by the complainant complied with the legislation, were consistent with the FDP, and were largely consistent with relevant Code guidebooks.

2. BCTS consultation with the local public exceeded legislated requirements. However, there was a lack of effective communication between the complainant and BCTS, as their respective actions and timelines were not made clear to each other.

[i] Board Bulletin, Volume 3 – *Opportunity for Public Consultation under the Forest and Range Practices Act.*

[ii] Community watersheds are established under the *Forest Practices Code of British Columbia Act* and generally have a water source used for human consumption and controlled by a water user's community.

[iii] *Water Quality in the Shawnigan Lake Community Watershed.* FPB/IRC/70S. May 2002.

[iv] In January 2004 the *Forest and Range Practices Act* (FRPA) replaced the Forest Practices Code as British Columbia's forest practices legislation. FRPA will be phased in over a transition period ending on December 31, 2006 (with government authorized to extend the period until December 31, 2007). The transitional provisions of FRPA state the Code continues to apply to forest practices carried out under a forest development plan. This continues until there is an approved forest stewardship plan, at which point, the requirements of FRPA apply.

v The *South Island Forest District Policy for Wildlife Tree Patch Guidelines* (1997).

vi *Provincial Wildlife Tree Policy* (February 2000).

[vii] Stathers, R. J., T. P. Rollerson and S. J. Mitchell, 1994. Windthrow Handbook for British Columbia Forests